



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6850-99

11 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 9 October 1981 for six years in the Active Mariner Program. You were ordered to active duty on 20 October 1981 for a period of three years.

The record reflects that you were advanced to SA (E-2) and served without incident until 23 July 1982 when you received nonjudicial punishment (NJP) for a 11 day period of unauthorized absence (UA) and missing ship's movement. Punishment consisted of a suspended reduction in rate to SR (E-1), and 20 days of restriction and extra duty.

You were advanced to BMSN (E-3) and continued to served without further incident until 20 April 1983 when you tested positive for marijuana. You were referred for medical evaluation and revealed a history of pre-service and in-service use of marijuana. You were diagnosed as a user without dependence and it was determined that no rehabilitation was needed at that time. The medical evaluation noted that you did not want to remain on active duty and administrative separation was recommended.

During the three month period from April to June 1983 you received three NJPs for use of marijuana, possession of drug paraphernalia, a brief period of UA, and breaking restriction.

On 22 June 1983 you were notified that discharge under other than honorable conditions was being considered by reason of misconduct due to a pattern of misconduct and drug abuse. You were advised of your procedural rights and waived your right to be represented by counsel and to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct and drug abuse. On 22 July 1983, the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct due to drug abuse. You were so discharged on 2 August 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 16 years since you were discharged. The Board noted your statement in support of your application. The Board concluded that these factors and the statement were insufficient to warrant recharacterization of your discharge given your record of four NJPs, two of which were for drug offenses. It appeared to the Board that you knew, or should have known, the consequences of illegal drug use. The Board noted the aggravating factor that waived your right to an ADB the one opportunity you had to show why you should be retained or discharged under honorable conditions. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director